

September 17, 1996
Addendum to Attachment

ADDENDUM TO SUMMARIES AND RESPONSES TO ENVIRONMENTAL POINTS

For purposes of clarification and to assure completeness of summaries, the following summaries and responses to environmental points are added to the previously prepared summaries and responses to environmental points, which contained substantive responses to all environmental points. The previously prepared summaries and responses constitute an attachment to the Staff Report dated September 13, 1996, addressing the proposed adoption of Utilities and Infrastructure Policy P-3 as a regulation and amendment to the Land Use and Resource Management Plan.

E18. Comment: Commenter argues that the proposed action would result in significant environmental impacts, such that the preparation of an environmental impact report is needed for compliance with the California Environmental Quality Act ("CEQA"). (Planning and Conservation League, April 1, 1996.)

Response: The proposed action by the Commission is within the Commission's planning program which has been certified by the Secretary for Resources, pursuant to the provisions of Public Resources Code section 21080.5, and thus is subject to environmental analysis and review using staff documents to comply with CEQA requirements. Preparation of an environmental impact report is not required under a certified program. The Commission's analysis properly concluded that no potentially significant environmental effects would result from the proposed action. See also responses to Comments E1 and E5.

E19. Comment: Commenter argues that the following statements represent potentially significant adverse effects which may result from the proposed action, such that analysis in an environmental impact report is required:

(a) water quality degradation and soil contamination will result in other areas of the state due to an increase in discharge of sludge to landfills caused by the proposed action;

(b) potential environmental degradation and reduced fish and wildlife habitat will result due to continued wastewater discharges to the Delta and disposal of biosolids on land;

(c) Sacramento's high intensity land disposal practices cannot be continued and application at an agronomic rate would reduce environmental impacts associated with current disposal practices;

(d) given concerns expressed by State Water Contractors about river discharges of wastewater from the City of West Sacramento precluding that City from discharging wastewater on

Sacramento precluding that City from discharging wastewater on Delta lands could result in water quality problems for the Sacramento River and the Delta;

(e) restricting alternative methods of disposing of biosolids would conflict with adopted state policy and interfere with agency compliance with planning requirements of Public Resources Code §40000 et seq.

(Planning & Conservation League, April 1, 1996.)

Response: Under its certified program the Commission must analyze any potentially significant environmental effects, as indicated by substantial evidence, of proposed actions it is considering. However, argument, speculation, unsubstantiated opinion and erroneous assertions do not constitute substantial evidence of a potential impact. (Public Resources Code §21080(e); §21082.2.) The analysis of the proposed action by the Commission's staff did not reveal any potentially significant adverse effects, and the comment contains only general argument and unsubstantiated assertions of significant effects. See also responses to Comments E1, E5, E6, E8, E16, E 17 and E18. More specific responses follow.

(a) The comment speculates without providing any factual support that discharges of sludge to landfills will increase as a result of the proposed action, including, by implication, discharges to already leaking landfills. No factual support has been presented for the assumption. To the extent that landfills are currently receiving sludge, they are, and will continue to be, subject to regulation, and, if they are leaking, or potentially leaking, they will be subject to increased regulation and limitations imposed by the appropriate regulatory agencies.

(b) The comment is unclear, but it seems to argue that continuation of existing discharges and disposal to land would constitute significant environmental impacts resulting from the proposal. However, since CEQA defines significant environmental effect as a substantial adverse change in existing physical conditions in the area affected by the proposed project, the continuation of existing practices, which are not affected by the proposed action, does not constitute a significant effect. (Public Resources Code §21060.5, 21068; Bloom v. McGurk (1994) 26 Cal.App.4th 1307; Baird v. County of Contra Costa (1995) 32 Cal.App.4th 1464, 31 Cal.App.4th 1265.)

(c) The current Sacramento disposal practices noted in the comment occur outside the Delta Primary Zone. Sacramento may alter its disposal practices using areas outside the Delta Primary Zone. To the extent that the Sacramento situation evidences nitrate problems associated with certain sewage sludge disposal practices, it confirms the environmental protection purposes of the proposed action. Sacramento County has entered into a contract with Wheelabrator Clean Water Systems, Inc., Bio

Gro Division, to provide certain sludge disposal services, and neither the contract, nor the proposal on which it was based, requires sludge disposal in the Delta Primary Zone.

(d) Evidence of existing conditions in the environment does not constitute evidence of a substantial adverse change in the environment which would be considered a significant environmental impact under CEQA. The existing discharge practices of the City of West Sacramento would not be changed by this proposed action. In any event the City could propose wastewater discharge and/or land disposal elsewhere and thereby provide greater protection for the water quality of both the Sacramento River and the Delta.

(e) The comment seems to assume erroneously that the proposed action would generally restrict sludge disposal methods, when the proposed action would apply only to lands within the Delta Primary Zone. The comment argues that the proposed action would conflict with state policy represented by Public Resources Code § 40000 et seq., but does not provide any factual support for this argument or speculation. There is no showing that compliance with applicable other requirements would be prevented or altered. The record contains comments from the Los Angeles County Sanitation Districts which indicate no plans to dispose of sewage sludge or sewage effluent in the Delta and no change in disposal plans. The Central Valley Regional Water Quality Control Board (CVRWQCB) has previously indicated that there is no conflict between its requirements and the Commission's proposed action. (CVRWQCB General Order, responses to comments.)